



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/886,654	06/21/2001	John Zajac	A-70178/ESW	4742

7590 03/04/2003

FLEHR HOHBACK TEST
ALBRITTON & HERERT LLP
Suite 3400
Four Embarcadero Center
San Francisco, CA 94111-4187

EXAMINER

CHEN, KIN CHAN

ART UNIT	PAPER NUMBER
1765	9

DATE MAILED: 03/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/886,654	ZAJAC ET AL.	
	Examiner Kin-Chan Chen	Art Unit 1765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 03 February 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) 1 and 2 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 3 and 4 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>4,6</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or
REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.)
- (e) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (f) BRIEF SUMMARY OF THE INVENTION.
- (g) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (h) DETAILED DESCRIPTION OF THE INVENTION.
- (i) CLAIM OR CLAIMS (commencing on a separate sheet).
- (j) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (k) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Drawings

2. The drawing is objected to because the Figure should be designated by --FIG. 1--. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application.

Election/Restrictions

3. Applicant's election with traverse of group II, claims 3 and 4 in Paper No. 8 is acknowledged. The traversal is on the ground(s) that there is no reason to think that either an etching process or a coating process could be carried out within the operational parameters set forth in the apparatus claims. This is not found persuasive because the apparatus claims cover what a device is, not what a device does. Hewlett-Packard Co. v. Bausch & Lomb Inc. 15 USPQ 2d 1525 (Fed. Cir. 1990). The apparatus is capable of performing various operational parameters wider than that set forth in the apparatus claims. Therefore, the apparatus as claimed can be used to practice another and materially different process such as cleaning or coating the semiconductor.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aoki et al. (US 5,581,874; hereinafter "Aoki") in view of Hubacek (US 6,451,157).

In a method of etching, Aoki teaches that a wafer may be placed on a pedestal (so-called susceptor in Aoki) in a chamber. A gas containing fluorine may be introduced into chamber through an upper electrode which is positioned substantially parallel to and less than 6 mm from the pedestal. RF power may be applied to the pedestal and / or the upper electrode. The pressure inside the chamber may be maintained at a level greater than 1.5 Torr. Aoki teaches exhausting gas from the chamber by an exhausting pump and also teaches maintain the internal pressure to a predetermined pressure level, therefore, it is obvious the gas is exhausted through a pressure regulation valve.

See col.10, lines 1-10, 33-35, 66-67; col.11, lines 1-5, 53-55; col.13, lines 30-32.

The claimed invention differs from Aoki by specifying a showerhead electrode (upper electrode). However, it is a well-known electrode used in plasma processing. Hubacek is relied on to show that the showerhead electrode can be used for any type of semiconductor processing apparatus wherein it is desired to distribute process gas over a semiconductor substrate (col. 4, lines 39-44; abstract). Because it is a well-known feature in the art and because it is disclosed by Hubacek, hence, it would have been

obvious to one with ordinary skill in the art to use showerhead electrode in the process of Aoki in order to provide their art recognized advantages and thus produce an expected result. Also see Tomoyasu et al. (US 5,888,907) in the record as evidence.

Dependent claim 4 differs from combined prior art by specifying the RF power and gas pressure (accordingly, the ratio). However, RF power and gas pressure are commonly determined by routine experiment in the art of plasma etching, it would have been obvious to one of ordinary skilled in the art to determine the suitable RF power and gas pressure through routine experimentation in the combined prior art in order to obtain the best etched product achievable.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Tomoyasu et al. (US 5,888,907) teaches a shower head may be used as an upper electrode, see col. 5, lines 44-45.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kin-Chan Chen whose telephone number is (703) 305-0222. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Benjamin Utech can be reached on (703) 308-3836. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications. Any inquiry of a general nature or relating to the status of this

Application/Control Number: 09/886,654
Art Unit: 1765

Page 6

communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2934.



K-C C.
February 25, 2003

Patent Examiner
Group Art Unit 1765